

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6721 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE Sd/-

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No

-----  
GOVINDBHAI BABARBHAI RAVAL

Versus

INDUSTRIAL PLASTICS

-----  
Appearance:

MR PC MASTER for Petitioners

MR RV DESAI for Respondent No. 1

-----  
CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 25/09/98

ORAL JUDGEMENT

Heard Mr.Master for the petitioner and Mr.Desai for the respondent. RULE is made returnable forthwith. Mr.Desai waives service of Rule on behalf of the respondent. Both the advocates have made their submissions.

2. In a reference being No. 275/91 pending between

the parties in the Labour Court at Baroda, a pursis was filed on behalf of the employees stating that they are not disputing the correctness of the enquiry but that is subject to their rights under Section 11-A and challenge to the findings of the Enquiry Officer. The learned Judge of the Labour Court construed that pursis as accepting the findings and proceeded to give award on 17.3.1997 wherein he rejected the demand for reinstatement and recorded that an amount of Rs.10,000/will be given to each employee on humanitarian ground. Being aggrieved by that award, the present petition is filed.

3. Mr.Master submits that all that the petitioner had given up was the challenge to the fairness of the inquiry. It was clearly stated that they wanted to challenge the findings. The learned Judge was expected to complete this part. Mr.Desai states that that was also impliedly given up by them. It is difficult to accept this submission. That is a specific part of the procedure before the Labour Court. If the employees have given up challenge to the fairness of the inquiry, it does not mean that they had given up the challenge to the correctness of findings in the enquiry report. In the circumstances, the impugned award will have to be interfered with. The same is, accordingly, quashed and set aside. The proceeding before the Labour Court will stand restored. All that remains to be done hereafter is to hear the parties with respect to the correctness of the findings as to whether they are justified or are perverse in any manner whatsoever. Even if the findings are held to be justified and not perverse, then also the question of granting appropriate relief remains which is to be considered under Section 11-A of the Industrial Disputes Act, 1947 as held by the Hon.'ble Supreme Court in the case of SCOOTER INDIA LTD. v. LABOUR COURT, LUCKNOW reported in AIR 1989 SC 149. In the event the findings are held to be vitiated, it will again be a different scenario. In either of the situations, the amount that is paid by the respondent - management will be taken into consideration while passing the appropriate award. It is, however, made clear that the above observations do not mean one way or the other that the findings are perverse or they are not perverse. As stated, what remains to be done is to argue the matter on the aforesaid aspect and there is no question of any further evidence at that stage. The learned Judge of the Labour Court shall endeavour to dispose of the reference as expeditiously as possible, preferably by the end of January 1999. Rule is accordingly made absolute with no order as to costs.

(KMG Thilake)

#####